

REMARKS

The Office Action dated September 24, 2004 has been received and carefully considered. In this response, claims 1, 11-13, 15, 17-21, 36, 37, 39, 42, 43, 45, 49, 61, 62, 63, 65 and 67-71 have been amended and claim 3 has been canceled. Support for the amendments may be found in the specification and drawings as originally filed. Reconsideration of the outstanding objections and rejections in the present application is respectfully requested based on the following remarks.

Telephonic Interview of December 1, 2004

At the outset, the undersigned thanks the Examiner for the courtesies extended during the telephonic interview conducted on December 1, 2004. During the telephonic interview, the Applicant's representative discussed amending the claims to include limitations related to estimating performance. However, based upon the Examiner's comments during the telephonic interview and upon reconsideration of the cited references, the Applicant has opted to forgo amending the claims as proposed in view of the following remarks.

Allowability of Claims 7-9, 19, 31-33, 43, 57-59 and 69

The Applicant notes with appreciation the indication at page 7 of the Office Action that claims 7-9, 19, 31-33, 43, 57-59 and 69 would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. The Applicant has opted to forgo rewriting these claims as suggested in view of the following remarks.

Objection to Claim 1

At page 1 of the Office Action, claim 1 was objected to as having an informality. The Applicant has amended claim 1 consistent with the Examiner's remarks and therefore respectfully requests withdrawal of this objection.

Obviousness Rejection of Claims 1-74

At page 2 of the Office Action, claims 1-6, 12-18, 20, 25, 27-30, 34-42, 44, 49, 51-56, 62-66, 68 and 70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Celi (U.S. Patent No. 5,687,376) in view of Hsieh (U.S. Patent No. 5,883,640). At page 5, claims 2, 26 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Celi in view of Hsieh and further in view of Official Notice. At page 6, claims 10, 11, 21-24, 45-47, 61 and 71-74 were

rejected under 35 U.S.C. § 103(a) as being unpatentable over Celi in view of Hsieh and further in view of Hochmuth (U.S. Patent No. 6,337,689). These rejections are respectfully traversed with amendment.

Claim 1, from which claims 2 and 4-24 depend, has been amended to clarify that the graphics function call is received at the driver and that the conversion of the graphics function call to the native command set is performed at the driver. Thus, claim 1 presently recites, in part, the limitations of receiving a graphics function call at a driver, converting, at the driver, the graphics function call to a native command set for execution on a native system, and capturing the native command set in a database. Claim 25, from which claims 26-48 depend, recites, in part, the similar limitations of a driver capable of capturing graphics function calls and converting the graphics function calls to a native command set and a routing capable of capturing the native command set to a database. Claim 49, from which claims 50-74 depend, recites, in part, similar limitations, as well as additional limitations of executing the native command set to determine graphics processing performance.

During the telephonic interview of December 1, the Examiner requested clarification of the limitations related to conversion of a graphics function call and a native command set. By way of example, the Examiner is directed to the exemplary embodiment disclosed by Figures 1 and 2 and the specification at page 3, line 14 to page 6, line 7. As this exemplary embodiment discloses, the graphics function call may include, for example, a function call submitted by a software application to a driver. The driver then may translate the graphics function call to a command set native to (i.e., executable by) the system “driven” by the driver, where this cited passage provides that exemplary embodiments of such a system may include a graphics device, such as a graphics card, a graphics accelerator or a graphics chip. Thus, in the exemplary embodiment described for illustrative purposes, the native command set may be viewed as the command set output by the driver as intended for execution by a system expected to be connected to the driver (e.g., a graphics device).

Turning to the rejections, the Examiner asserts that the passages of Celi at col. 1, lines 40-67, col. 3 lines 30-38, col. 4, lines 30-43, col. 6, lines 1-17, col. 12, lines 31-56, col. 12, lines 57-67, and items 32, 34, 36, 64a, 64b, 64c of Figure 2 disclose the above-identified limitations of independent claims 1, 25 and 49. *Office Action*, p. 2-4. However, the Applicant respectfully

submits that Celi discloses the translation of function calls to video-manager interface (VMI) commands at translation modules 64a-64c. These VMI commands are then provided to a video manager module 55, whereupon they are converted to graphics hardware interface (GHI) commands “recognizable to a selected device driver. The VMI commands thus represent a set of functions that include commands common to a variety of graphics engines.” *See Celi*, col. 5, lines 10-18. The GHI commands then are provided to a particular device driver 50a, 50b for execution. If the device driver cannot execute a the provided GHI command, it sends a “simulation request” to the video manager module 55 to cause the module 55 “to perform the designated graphics function directly.” *See Celi*, col. 5, lines 19-22. Thus, as Celi teaches the translation of function calls to GHI commands prior to involvement by the device drivers 50a, 50b, Celi necessarily fails to disclose or suggest the limitations of receiving a graphics function call at a driver. Similarly, Celi also fails to disclose or suggest that the device drivers 50a, 50b convert such a function call to a native command set for execution by a native system (e.g., the graphics adapters 38a, 38b).

The Examiner relies on the passage of Hsieh at col. 2, lines 56-64 in asserting that the storage of the native command set in a database would be an obvious modification of Celi. However, it is respectfully submitted that the cited passage of Hsieh discloses the storage of character strings, such as “‘file’, ‘edit’, ‘view’, and ‘help’” which “are frequently displayed on a graphics display.” *Hsieh*, col. 2, lines 50-53. The Applicant respectfully submits that character strings as contemplated by Hsieh are not equivalent or analogous to native command sets as understood from the context of the claims and the present application, and, consequently, the storage of character strings in a database is not equivalent or analogous to storage of a native command set in a database as recited by the claims. Moreover, assuming, *arguendo*, that the storage of character strings were equivalent to the storage of command sets, Hsieh provides no disclose related to the storage of any item output by a driver, and thus fails to motivate the modification of Celi as proposed by the Examiner to purportedly render obvious the limitations of storing in a database the native command set resulting from the driver.

The Applicant notes that the Office Action does not assert that Hochmuth discloses or suggests the above-identified limitations of claims 1, 25 and 49. Accordingly, it is respectfully submitted that the Office Action fails to establish that the proposed combinations of Celi, Hochmuth, Hsieh and the Examiner’s Official Notice disclose or suggest each and every

limitation of claims 1, 25 and 49, as well as each and every limitation of claims 2, 4-24, 26-48 and 50-74 at least by virtue of their dependency from one of claims 1, 25 and 49.

Moreover, these claims recite additional limitations neither disclosed nor suggested by the cited references. For example, claims 21 and 45 recite limitations directed to the determination of an estimated performance based on an architectural description and workload characteristics of the native command set. As noted during the telephonic interview, it is respectfully submitted that the cited references fail to disclose or suggest these limitations.

In view of the foregoing, it is respectfully submitted that the obviousness rejections of claims 1-74 are improper at this time and withdrawal of these rejections therefore is respectfully requested.


Conclusion

The Applicant respectfully submits that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-0441.

Respectfully submitted,

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Date


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